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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	OAH No. 2017050693
)	NMLS ID: 323371
THE COMMISSIONER OF BUSINESS)	
OVERSIGHT,)	STIPULATION
)	
Complainant,)	
v.)	
)	
WILLIAM RICHARD HOGARTY,)	
)	
Respondent.)	

This Stipulation is entered into by and between the Commissioner of Business Oversight (Commissioner) and William Richard Hogarty (Hogarty) (hereafter, the parties) and is made pursuant to the following facts:

RECITALS

A. Hogarty applied for mortgage loan originator license on September 10, 2016 by submitting a Form MU4 through the National Mortgage System and Registry (NMLS).

B. In connection with this application, Hogarty was requested to provide additional information and materials pertaining to (1) a prior personal bankruptcy, (2) a plea of nolo contendere to a misdemeanor, (3) a civil lawsuit in which Hogarty was named as a defendant in a consumer

initiated financial services related case, and (4) the circumstances related to the voluntarily surrender of Hogarty's BRE license.

C. While Hogarty supplied some additional information, the Commissioner determined the application for a mortgage loan originator license should be denied because Hogarty had a financial history that included a dismissed bankruptcy filing, a surrender of his license following the filing of a BRE Accusation of improper conduct while holding his real estate license, civil claims arising out of his business with his real estate license and a nolo contendere plea to a violation of Business and Professions Code section 2944.6.

D. The Commissioner further determined that Hogarty made a false statement of a material fact in his application for a mortgage loan originator license.

E. On April 7, 2017, the Commissioner issued a Notice of Intent to Deny the Mortgage Loan Originator Application of Hogarty (Administrative Action) pursuant to section 22109 of the California Finance Lenders Law (CFLL) (Fin. Code, § 22000 et seq.).

F. On May 4, 2017, Hogarty requested a hearing with regard to the Administrative Action and waived time for the hearing. The hearing is presently scheduled for September 18-19, 2017 before the Office of Administrative Hearings.

G. It is the intent and desire of the parties to resolve this matter without the necessity of a hearing or other litigation.

NOW THEREFORE, in consideration of the foregoing, and the terms and conditions set forth herein, the parties agree and stipulate as follows:

TERMS AND CONDITIONS

1. Purpose: This Stipulation is entered into for the purpose of judicial economy and efficiency, and to avoid the expense and uncertainties of a hearing, and other possible court proceedings.

2. Jurisdiction and Issuance of Final Order: Hogarty admits to the jurisdiction of the Commissioner over him and further stipulates to the finality of the Order Denying Mortgage Loan Originator License attached as Exhibit A (Order).

1 3. Waiver of Hearing: Hogarty acknowledges that the Commissioner granted a hearing
2 in relation to the Administrative Action and hereby waives his right to a hearing in relation to the
3 Administrative Action and withdraws his request for an administrative hearing. Hogarty agrees to
4 waive all rights to hearing, appeal, or judicial review of the Administrative Action which may be
5 afforded under the Administrative Procedures Act (Gov. Code, § 11400 et seq.) or section 22109 of
6 the CFLL.

7 4. Future Applications to Commissioner: If Hogarty applies for any license, permit, or
8 qualification under the Commissioner's current or future jurisdiction, or is the subject of an action by
9 the Commissioner, then the allegations contained in the Administrative Action shall be admitted for
10 the purpose of such application(s) or enforcement proceeding(s). This Stipulation shall not prohibit
11 Hogarty from filing a future application for a mortgage loan originator license; however, Hogarty
12 understands and agrees that the Administrative Action may be considered by the Commissioner when
13 reviewing the merits of any such application.

14 5. Full and Final Settlement: The parties hereby acknowledge and agree that this
15 Stipulation is intended to constitute a full, final and complete resolution of this matter.

16 6. Commissioner's Duties: The parties further acknowledge and agree that nothing
17 contained in this Stipulation shall operate to limit the Commissioner's ability to assist any other
18 agency, (county, state or federal) with any prosecution, administrative, civil or criminal, brought by
19 any such agency against Hogarty based upon any of the activities alleged in this matter or otherwise.
20 This Stipulation shall not limit the ability of the Commissioner to bring any administrative or civil
21 action to enforce compliance with the orders attached hereto or seek penalties for their violation.

22 7. Independent Legal Advice. Hogarty represents, warrants, and agrees that he has had
23 the opportunity to seek independent advice from legal counsel and/or representative with respect to
24 the advisability of executing this Stipulation.

25 8. Full Integration. Each of the parties represents, warrants, and agrees that in executing
26 this Stipulation each has relied solely on the statements set forth herein and the advice of its own
27 counsel and/or representative. Each of the parties further represents, warrants, and agrees that in
28 executing this Stipulation it has placed no reliance on any statement, representation, or promise of

any other party, or any other person or entity not expressly set forth herein, or upon the failure of any party or any other person or entity to make any statement, representation or disclosure of anything whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in any way fraudulently induced to execute this Stipulation; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this Stipulation.

9. Final Agreement. This Stipulation is the final written expression and the complete and exclusive statement of all the agreements, conditions, promises, representations, and covenants between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements, negotiations, representations, understandings, and discussions between and among the parties, their respective representatives, and any other person or entity, with respect to the subject matter covered hereby.

10. Voluntary Agreement. Hogarty enters into this Stipulation voluntarily and without coercion and acknowledge that no promises, threats or assurances have been made by the Commissioner or any officer, or agent thereof, about this Stipulation.

11. Presumption Against Drafting: In that the parties have had the opportunity to draft, review and edit the language of this Stipulation, no presumption for or against any party arising out of drafting all or any part of this Stipulation will be applied in any action relating to, connected, to, or involving this Stipulation. Accordingly, the parties waive the benefit of Civil Code section 1654 and any successor or amended statute, providing that in cases of uncertainty, language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist.

12. Counterparts: This Stipulation may be executed in one or more counterparts, each of which shall be an original but all of which, together, shall be deemed to constitute a single document.

13. Public Record: Hogarty acknowledges that this Stipulation and the Order referenced herein are public records.

14. Authority to Bind: Each signator hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Stipulation.

15. Service: Service to Hogarty of this Stipulation shall be effected by an agent for the Commissioner sending copies by electronic mail to Hogarty at Hogarty@proofsmartfood.com.

1 16. Effective Date: This Stipulation shall become effective once signed by all parties and
2 service to Hogarty has been executed pursuant to Paragraph 15.

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4 JAN LYNN OWEN
5 Commissioner of Business Oversight

6 Dated: 6/20/17

7 By _____
8 MARY ANN SMITH
9 Deputy Commissioner
10 Enforcement Division

11 Dated: 6/19/17

12 By _____
13 WILLIAM RICHARD HOGARTY, as an individual
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